



2. A copy of the Complaint was served on Discover on September 21, 2016. No other documents have been filed in the State Court Action. Pursuant to 28 U.S.C. § 1446(a), Discover has attached true and correct copies of “all process, pleadings, and orders served” upon Discover in the State Court Action as Exhibit A.

3. In the Complaint, Plaintiff alleges that Discover “caused to be made an unknown number of calls to Plaintiff’s cell phone number [...] using either an automatic telephone dialing system . . . or an artificial or prerecorded voice [...] [without] the Plaintiff’s prior express consent.” *See* Compl. at ¶¶12, 16, 18.

4. Plaintiff alleges that these calls harmed him because they were “a nuisance and invasion of privacy,” interfered with his “rights and interests in [his] cellular telephone, and “intrud[ed] upon Plaintiff’s seclusion.” *See* Compl. at ¶¶13-15.

5. Based thereon, the Complaint raises a single claim under the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227 *et seq.*, and demands between \$500 and \$1,500.00 per call. *See* Compl. at ¶¶ 20-22.

## **II. BASIS FOR REMOVAL JURISDICTION**

6. This Court has original jurisdiction under 28 U.S.C. § 1331 as Plaintiff alleges violations of a claim or right arising under the laws of the United States.

7. Specifically, the Complaint alleges violations of the TCPA, 47 U.S.C. § 227, *et. seq.* See generally Compl.

8. Therefore, this action is subject to removal pursuant to 28 U.S.C. §§ 1331 and 1441 at the request of Discover, because Plaintiff's claims arise under the laws of the United States.

### **III. VENUE**

9. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(a) and 1441(a), because the United States District Court for the Middle District of Pennsylvania is the federal court embracing the Court of Common Pleas of Monroe County, Pennsylvania, where Plaintiff originally filed the State Court Action.

### **IV. PROCEDURAL COMPLIANCE**

10. Plaintiff purported to serve Discover by mailing a copy of the summons and complaint to Discover on September 21, 2016. See Ex. A.

11. This Notice is timely because it has been filed within the thirty day period prescribed by 28 U.S.C. § 1446(b).

12. The time for Discover to answer, move, or otherwise plead in the State Court Action in response to the Complaint has not yet expired, and Discover has not answered, moved, or otherwise responded to the Complaint.

13. The documents attached hereto as Exhibit A constitute all of the process, pleadings, and orders received by Discover to date.

14. Written notice of the filing of this notice of removal is being forwarded to counsel of record for Plaintiff, as well as to the Prothonotary of the Court of Common Pleas of Monroe County, Pennsylvania, pursuant to 28 U.S.C. § 1446(d). *See* Notice of Filing Notice of Removal (Exhibit B hereto).

15. By filing a Notice of Removal in this matter, Discover does not waive its right to object to service of process, the sufficiency of process, jurisdiction over the person, or venue, and Discover specifically reserves the right to assert any defenses and/or objections to which it may be entitled.

16. Without conceding the availability of any particular remedy or category of damages, this action involves a controversy arising under the laws of the United States, as appears from the allegations of Plaintiff's Complaint. Accordingly, this action is one over which this District Court has original subject matter jurisdiction pursuant to 28 U.S.C. § 1331, and this matter may be removed to this Court under 28 U.S.C. § 1441.

WHEREFORE, notice is given that this action is removed from the Court of Common Pleas of Monroe County, Pennsylvania, to the United States District Court for the Middle District of Pennsylvania.

Dated: October 21, 2016     Respectfully submitted,

By: /s/ Daniel JT McKenna  
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*Attorneys for Defendant Discover Products, Inc.*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of  
Defendant Discover Products Inc.'s Notice of Removal was electronically served  
on this date upon the following:

Brett Freeman, Esq.  
Sabatini Law Firm, LLC  
216 N. Blakely Street  
Dunmore, PA 18512

*Attorney for Plaintiff*

By: /s/ Daniel JT McKenna  
Daniel JT McKenna

Dated: October 21, 2016